

ATTACHMENT 1

Proposed amendments to 26 S.C. Code Regs. 103-512.3.1 through 103-512.3.3 (Supp. 2004) and 26 S.C. Code Regs. 103-712.3.1 through 103-712.3.3 (Supp. 2004). Deletions from the current text are stricken (i.e. ~~stricken~~) and additions to the current text are underlined (i.e. underlined). (Please note that the numbering of the regulations below is slightly different but this numbering tracks the numbering as published.)

103-512.3.1. Amount of Bond.

The amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses. The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000. A bond shall be required for each water and wastewater provider under the jurisdiction of the Public Service Commission. A certification that the face amount of the bond on file with the Commission complies with the provisions of 103-512.3.1 of this rule shall be filed with the annual report required by 103-512.1 of this rule. The ~~Staff~~—ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility. Based upon the expenses of the utility as submitted in the annual report and as reviewed and adjusted by ~~Staff~~ORS, the ~~Staff~~ ORS shall make recommendations for increasing or reducing the amount of the bond within the minimum and maximum limits as prescribed by statute.

103-512.3.2. Sureties.

(A) Sufficient surety may be any of the following or combination of the following totaling the value of the required bond amount:

(1) a duly licensed bonding, ~~or~~ insurance, casualty, or surety company authorized and licensed to do business in this State. ~~A corporate surety, other than such a bonding or insurance company, shall not be considered sufficient surety. Sufficient surety may be any individual, as stockholder, partner, sole owner, etc., in the utility, so long as the individual surety's net worth is at least twice the face amount of the performance bond.~~

(2) certificates of deposit and/or securities.

(a) Certificates of deposit may be drawn on federal or state chartered banks which maintain an office in this State and whose accounts are insured by Federal Deposit Insurance Corporation or similar insurance. Multiple certificates of deposit may be used to provide sufficient surety for a bond; each certificate of deposit posted as surety shall be covered by FDIC or similar insurance.

(b) Acceptable securities are :

(i) obligations of the United States of America,

(ii) obligations of the State of South Carolina,

(iii) irrevocable letters of credit issued by financial institutions acceptable to the Commission.

(B) Certificates of deposit provided as surety for the performance bond must be drawn in the name of the utility and the Commission. Irrevocable letters of credit and bonds or assurances issued by approved corporate sureties must name the Commission as obligee of the bond and must name the utility as the principal.

(C) Utilities are to maintain at all times the required bond amount as provided in 103-512.3.1. Prior to the expiration, revocation, or maturity of any surety, the utility is to secure a new surety so that the required bond amount is in effect at all times. The utility shall provide the Commission and ORS written notification of the new surety by means of certified mail, return receipt requested. Any lapse in maintaining the performance bond and sureties at all times or failure to maintain the required bond amount shall result in an automatic 25% increase above the original required bond amount for a minimum of two years.

(D) A corporate surety, other than a licensed bonding, insurance, casualty, or surety company authorized and licensed to do business in this State, shall not be considered sufficient surety. A utility may not stand as surety for its own bond. A personal financial statement, regardless of the individual's net worth, shall not be considered sufficient surety.

~~103-512.3.3. Financial Statement.~~

~~When any individual acts as surety, he shall file with the Commission annually a financial statement verified by said surety showing the individual surety's personal assets, liabilities, and net worth. The Commission may accept a verification of the financial statement in a format prescribed by the Commission.~~

103-712. Data to be Filed with the Commission.

3.1. Amount of Bond. The amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses. The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be

\$350,000. A bond shall be required for each water and wastewater provider under the jurisdiction of the Public Service Commission. A certification that the face amount of the bond on file with the Commission complies with the provisions of 103-712.3.1 shall be filed with the annual report required by 103-712.1 of this rule. The Staff ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility. Based upon the expenses of the utility as submitted in the annual report and as reviewed and adjusted by Staff ORS, the Staff ORS shall make recommendations for increasing or reducing the amount of the bond within the minimum and maximum limits as prescribed by statute.

3.2. Sureties.

(A) Sufficient surety may be any of the following or combination of the following totaling the value of the required bond amount:

(1) a duly licensed bonding, ~~or~~ insurance, casualty, or surety company authorized and licensed to do business in this State. ~~A corporate surety, other than such a bonding or insurance company, shall not be considered sufficient surety. Sufficient surety may be any individual, as stockholder, partner, sole owner, etc., in the utility, so long as the individual surety's net worth is at least twice the face amount of the performance bond.~~

(2) certificates of deposit and/or securities.

(a) Certificates of deposit may be drawn on federal or state chartered banks which maintain an office in this State and whose accounts are insured by Federal Deposit Insurance Corporation or similar insurance. Multiple certificates of deposit may be used to provide sufficient surety for a bond; each certificate of deposit posted as surety shall be covered by FDIC or similar insurance.

(b) Acceptable securities are :

(i) obligations of the United States of America,

(ii) obligations of the State of South Carolina,

(iii) irrevocable letters of credit issued by financial institutions acceptable to the Commission.

(B) Certificates of deposit provided as surety for the performance bond must be drawn in the name of the utility and the Commission. Irrevocable letters of credit and bonds or assurances issued by approved corporate sureties must name the Commission as obligee of the bond and must name the utility as the principal.

(C) Utilities are to maintain at all times the required bond amount as provided in 103-512.3.1. Prior to the expiration, revocation, or maturity of any surety, the utility is to secure a new surety so that the required bond amount is in effect at all times. The utility

shall provide the Commission and ORS written notification of the new surety by means of certified mail, return receipt requested. Any lapse in maintaining the performance bond and sureties at all times or failure to maintain the required bond amount shall result in an automatic 25% increase above the original required bond amount for a minimum of two years.

(D) A corporate surety, other than a licensed bonding or insurance company authorized to do business in this State, shall not be considered sufficient surety. A utility may not stand as surety for its own bond. A personal financial statement, regardless of the individual's net worth, shall not be considered sufficient surety.

~~3.3. Financial statement. When any individual acts as surety, he shall file with the Commission annually a financial statement verified by said surety showing the individual surety's personal assets, liabilities and net worth. The Commission may accept a verification of the financial statement in a format prescribed by the Commission.~~